



**CRR(F)-1834-2023 (O&M) and
CRR(F)-587-2024 (O&M)**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRR(F)-1834-2023 (O&M) and
CRR(F)-587-2024 (O&M)
Date of decision: 15.10.2024**

DIVESH SAPRA

... PETITIONER

V/s

LATIKA SAPRA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. P. Norula, Advocate and
Mr. Bhupinder Singh, Advocate for the petitioner.

Mr. Vivek Singla, Advocate and
Ms. Urvashi, Advocate for the respondents.

SUMEET GOEL, J.

1. Vide this common order, two separate criminal revision petitions, bearing numbers CRR(F) 1834 of 2023; and CRR(F) 587 of 2024 filed against, a common order dated 20.11.2023 passed by Principal Judge, Family Court, Gurugram, in case bearing No.MNT125/686/2018, are being decided together.

2. The parties in the present case are referred to as husband and wife, in order to ward off any confusion, while appreciating the facts of the case, in view of the interplay of titles in both the above-



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mentioned criminal revision petitions having been filed against the common order.

3. Facts germane to the adjudication of the present case are that the marriage between the parties was solemnized on 23.11.2015. Out of their wedlock, a male child was born. It is pertinent that the record and pleadings of the parties do not disclose the date of birth of the minor child. However, a copy of his Aadhar Card filed along with the criminal revision petitions shows his date of birth as 26.08.2016. In view of the differences and disputes having arisen between the husband and wife, the wife filed a petition under Section 125 of the Cr.P.C., in the Family Court, Gurugram seeking maintenance for herself and the minor son. The learned Family Court Gurugram vide impugned order dated 20.11.2023 while disposing of the application filed by the wife for grant of maintenance, awarded as the sum of Rs.10,000/- per month to the wife and Rs.5,000/- per month to the minor son, to be paid by the husband. Besides, the above-mentioned maintenance the learned Family Court ordered that since the husband is already paying rent for the accommodation of wife and minor child, he must continue to bear this obligation in addition to maintenance amount granted.

4. CRR (F) No. 1834 of 2023 is filed by the husband seeking setting aside of the impugned order dated 20.11.2023 passed by the Family Court, whereby maintenance has been granted to the wife and minor son. Whereas, CRR (F) No.587 of 2024 is filed by the



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wife and minor son, seeking enhancement of the maintenance amount granted by the Family Court, vide impugned order dated 20.11.2023.

5. I have heard the learned counsel for both the sides and gone through the record of the case carefully.

6. On behalf of the husband, while impugning the order dated 20.11.2023, it is argued that the impugned order is liable to be set aside, as the wife, through her own actions and conduct by living separately from the husband without any valid cause, has disintitiled herself from claiming any maintenance from the husband. It is submitted that she frequently sent text messages to her boyfriends and maintained continuous communication/relationships with them as a result of which disputes arose between the husband and wife. It is argued that the husband in pursuance of a complaint filed by the wife with the police had entered into a compromise and took a separate house on rent for wife and child. It is submitted that the respondent is continuing to pay rent for the accommodation where the wife and minor son are living, which started with Rs.10,000/- in the year 2019. It is submitted that the Family Court while passing the impugned order has not spelled out any clear formula for assessing the amount of maintenance as granted to the wife and minor child. It is submitted that the wife being professionally qualified and having been employed in the past prior to marriage, cannot be expected to sit idle and depend solely on the maintenance from the husband. Lastly, it is argued that the Family Court has erred in granting maintenance



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from the date of filing of the petition, whereas, in view of the long pendency of the petition the Family Court ought to have granted the maintenance from the date of order, especially in view of the fact that the husband has been paying interim maintenance during the pendency of the petition before the Family Court.

7. To the contrary, rebutting the arguments on behalf of the husband, it is argued on behalf of the wife and minor son that they are living separately from the husband as he treated them with cruelty, making it impossible for them to live with him. The allegations regarding the wife's alleged communication/relationships with purported boyfriends were categorically denied as baseless and unsubstantiated. It is submitted that while assessing the amount of maintenance the Family Court erred in not taking into account the actual salary of the husband being Rs.2.50 lacs per month. It is submitted that the bank statement of the husband shows that he received an amount of Rs.2.50 lacs on 25.10.2016 and Rs.2.50 lacs on 30.11.2016 and a further amount of Rs.5 lacs on 08.11.2016. It is argued that his salary in the year 2015-16 was 2.50 lacs which was reduced by him to Rs.72,588/- in the month of July, 2023 out of his skills as being chartered accountant. With these submissions, it is argued that the wife and minor child are entitled to get a maintenance amount of Rs.1 lac per month.

8. After giving my thoughtful consideration to the rival arguments advanced on behalf of both parties, I am of the considered



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opinion that the argument raised on behalf of the husband that the wife through her own actions and conduct is not entitled to receive any maintenance is wholly ill-conceived. The record of the case lay bare the hollowness of these submissions on the part of the husband. There is no evidence to substantiate the wild allegations levelled by the husband to assassinate the character of the wife. The reference made on behalf of the husband to the letter Ex.RW-1/1 to contend that the wife through said document while admitting her fault has apologized for her conduct. Learned Family Court duly taking note of the said document has correctly held that the said documents have no significance in the facts of the case, as the said letter was written on 10.04.2016. However, the parties thereafter, have lived together for a substantial period and the petition for grant of maintenance was filed on 11.12.2018. As such during the interregnum period, the parties by living together happily have condoned the alleged act subject matter of letter Ex.RW-1/1.

9. The submission made on behalf of the husband that the learned Family Court has not spelled out any formula for arriving at the amount of maintenance awarded is liable to be rejected being fallacious. A thorough perusal of the impugned order passed by the Family Court makes it abundantly clear that it has gone through all the aspects of the case minutely. The maintenance amount has been assessed while taking into all the circumstances of the case. The award of maintenance amount is dependent on various aspects of the



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case, i.e. the standard of living and status of parties, dependencies and requirements of the parties, their income, etc., no clear, set and rigid formula can be prescribed for adjudging the amount of maintenance. The Hon'ble Supreme Court in the case of ***Rajnish v. Neha (2021) 2 SCC 324*** held as under:

“III Criteria for determining quantum of maintenance.

(i) The objective of granting interim/permanent alimony is to ensure that the dependant spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.”

10. The next argument advanced on behalf of the husband to contend that the wife being professionally qualified cannot be expected to sit idle and as such she is not entitled to seek maintenance is again liable to be rejected as being misconceived. The wife merely by virtue of being educationally qualified cannot be held disentitled to seek maintenance, until and unless it is proved that she being professionally qualified, having taken up a profession, has given up on such profession, just for the sake of seeking maintenance. In the present case, it is not the case of the husband that the wife was working and earning after the marriage prior to her filing the present petition for grant of maintenance.

11. The learned Family Court, while passing the impugned order has adverted to this aspect of the case, wherein, it is held that she is spending most of her time in taking care of the minor child.



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The husband has miserably failed to prove any mala fide on the part of the wife in filing the petition for a grant of maintenance by giving up on her own professional income intentionally and deliberately. The Hon'ble Supreme Court in ***Rajnish's case*** (supra) has held as under:

“82. The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife. Refer to Jasbir Kaur Sehgal v. District Judge, Dehradun &Ors. (1997) 7 SCC 7. Refer to Vinny Paramvir Parmar v. Paramvir Parmar (2011) 13 SCC 112.”

12. The argument on behalf of the husband, that the Family Court, in view of the long pendency of the petition, and in view of the fact that he has been paying interim maintenance, ought to have granted maintenance from the date of order rather than from the date of filing of petition, is also not sustainable. The beneficial provision of Section 125 of the Criminal Procedure Code is meant for the benefit of the person seeking maintenance cannot be construed in a



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manner prejudicial to her interest. The pendency of the petition, when seen in the context of the facts of the present case, tilts the balance of convenience in favour of granting the maintenance from the date of filing of the petition, as it serves the rights of the wife and minor son in a better manner. It is not the case of the husband that the wife and minor son have by any act on their part, contributed to the delay in adjudication of the petition for grant of maintenance. The Hon'ble Supreme Court in ***Rajnesh's case*** (Supra), while dealing with this aspect of the case has held as under:

“It has therefore become necessary to issue directions to bring about uniformity and consistency in the Orders passed by all Courts, by directing that maintenance be awarded from the date on which the application was made before the concerned Court. The right to claim maintenance must date back to the date of filing the application, since the period during which the maintenance proceedings remained pending is not within the control of the applicant.”

13. Adverting to the CRR(F) 587 of 2024 i.e. the revision petition filed on behalf of the wife and the argument advanced on her behalf that the Family Court has not correctly assessed the maintenance amount, I find no force in the said argument. The Family Court while considering the testimony of Sh. Angad Dhawan, examined on behalf of the wife. He is person concerned from the office of employer of the husband. He proved on record the salary statements of the husband as per which the salary of the husband in the month of July, 2023 was Rs.72,588/-. The Family Court has



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taken into consideration the Income Tax Return of the husband for the year 2023-24, wherein, he had shown his gross salary as Rs.8,98,374/-. But the Family Court after evaluating the entire evidence on record of the case came to the conclusion that the husband has shown his salary in the Income Tax Return on lower side, whereas, the income of husband is not less than Rs.1 lac per month. It is the admitted case of the parties that the husband has availed several loans and is paying installments towards the same. The maintenance amount of Rs.10,000/- per month to the wife and Rs.5,000/- per month to the son is not the only amount, husband is paying. Over and above the said amount he is paying the rent for the accommodation of the wife and son. The said rent is stated to be Rs.10,000/- per month in the year 2019, which was stated to have increased to Rs.14,300/- per month in the year 2023, and must have increase further with 10 % increase of rent per year qua the tenanted premises.

14. In view of the above findings the impugned order dated 20.11.2023 passed by the Family Court, Gurugram does not suffer from any illegality or perversity. No interference with the impugned order passed by the Family Court is called for in the facts and circumstances of the present case. Hence, finding no merit in either petition both the above-mentioned criminal revision petitions i.e. CRR(F) 1834 of 2023 and CRR(F) 587 of 2024 are dismissed.

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15. Pending application(s), if any, shall also stand disposed of.
16. Photocopy of this order be placed on the file of another connected matter.

(SUMEET GOEL)
JUDGE

October 15, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No